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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,425	07/21/2003	Konrad Welfonder	33329US	7258
20686	7590	01/25/2005	EXAMINER	
DORSEY & WHITNEY, LLP INTELLECTUAL PROPERTY DEPARTMENT 370 SEVENTEENTH STREET SUITE 4700 DENVER, CO 80202-5647			LEV, BRUCE ALLEN	
		ART UNIT		PAPER NUMBER
		3634		
DATE MAILED: 01/25/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/624,425	WELFONDER, KONRAD	
	<b>Examiner</b> Bruce A. Lev	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 December 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-23 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 7/21/03 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

***Claims 15-21 and 23 are rejected*** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As concerns claims 15 and 18-21, the use of the phrases "or" is improper and render the claims as vague and indefinite.

As concerns claim 23, the use of the phrase "***means***" must be defined (i.e., means for attaching), as such the claim is rendered as vague and indefinite.

### ***Claim Rejections - 35 USC § 102***

***Claims 1, 5, and 23 are rejected*** under 35 U.S.C. 102(b) as being anticipated by ***Hoffman et al 5,647,421***.

***Hoffman et al set forth*** a rail 25 having an upper portion with an upper opening; a pair of wedge-shaped locking shoulders projecting inwardly from an inner surface; wherein the wall on a first side is "above" a wall on the other side (as illustrated). The applicant should note that "method' claims are not given patentable weight within "apparatus" claims, therefore method limitations, i.e., claim 5, are not given patentable weight when dependent upon apparatus claim 1.

***Claim Rejections - 35 USC § 103***

***Claims 1-3, 5, and 23 are rejected*** under 35 U.S.C. 103(a) as being unpatentable over the *British Patent of Cooper 1,191,532 in view of Hoffman et al.*

***Cooper '532 sets forth*** a rail having an upper portion with an upper opening; a pair of upper portion locking shoulders; a lower portion with a lower opening; a pair of lower portion locking shoulders; a tilted cross web, viewed as such due to the fact that it is "curved", and can further be viewed as such when the rail is in a "tilted" position; a fabric; and a stiffening member. ***What Cooper '532 does not set forth*** is the shoulders being wedge-shaped and pointing inwards from an inner surface; and wherein the wall on a first side is "above" a wall on the other side. However, ***Hoffman et al teach*** forming a rail having shoulders being wedge-shaped and pointing inwards from an inner surface, and wherein the wall on a first side is "above" a wall on the other side. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the rail of Cooper '532 by incorporating shoulders being wedge-shaped and pointing inwards from an inner surface, and wherein the wall on a first side is "above" a wall on the other side, as taught by Hoffman et al, in order to more securely removably hold the stiffening members and thereby the fabric within the rail.

***Claims 4 and 6-22 are rejected*** under 35 U.S.C. 103(a) as being unpatentable over *Cooper in view of Hoffman et al further in view of Urlacher 5,127,143.*

***Cooper in view of Hoffman et al set forth*** the rail, as advanced above, and therefore the method for attaching thereof. ***What Cooper in view of Hoffman et al do***

***not set forth*** is the method including the use of an inserting wheel. However, ***Urlacher teaches*** the use of an inserting wheel 80 to attach a fabric to a rail and its locking shoulders. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for attaching of Cooper in view of Hoffman et al by using an inserting wheel to push the edges of the fabric to engage the locking shoulders, as taught by Urlacher, in order to increase the speed to which the fabric covering can be created and to improve quality insurance thereof.

#### ***Response to Amendment***

Applicant's remarks filed December 23, 2004, have been fully considered.

As concerns remarks pertaining to the reference of Hoffman having common ownership, the examiner points out that if the applicant is relying on overcoming the patent of Hoffman by claiming "common ownership", a Terminal Disclaimer would still need to be filed to overcome the disclosed subject matter therein.

As concerns remarks pertaining to the configuration of Hoffman, the examiner reiterates the position that the pair of wedge-shaped locking shoulders can be viewed as projecting inwardly from an inner surface depending on what is defined as the "inner surface". In the instant case, member 25 has outer walls and inwardly jutting walls that can be viewed as attached at an inner surface of the outer walls.

As further concerns the configuration of Hoffman, the examiner reiterates the position that the tilted cross web can be viewed as being "tilted" due to the fact that it is "curved", and can also further be viewed as "tilted" when the rail is in a "tilted" position.

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Even further, the examiner doesn't see an engineering reason why the web needs to be tilted, thereby this limitation could be viewed as a design choice.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

January 21, 2005

*Bruce A. Lev*

**Primary Examiner**

*Group 3600*

